

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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31 COMMERCE STREET LLC,

Plaintiffs,

-against-

THE VILLAGE OF SPRING VALLEY, GEORGE
O. DARDEN, PHILIP ROSENTHAL, BETTIE
BROWN, DEMEZA DELHOMME, NORAMIE
JASMIN, Constituting the BOARD OF TRUSTEES
of the Village of Spring Valley,

Defendants.
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ANSWER

Docket No.
08 Civ. 3158 (CLB)

Defendants, by their attorneys, MIRANDA SOKOLOFF SAMBURSKY SLONE
VERVENIOTIS, LLP as and for his answer to the complaint in the above-referenced action,
sets forth as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “1” of the complaint.
2. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “2” of the complaint.
3. Deny the allegations contained in ¶ “3” of the complaint.
4. Deny the allegations contained in ¶ “4” of the complaint, and refer all questions of law to the Court for adjudication.
5. Admit the allegations contained in ¶ “5” of the complaint.
6. Admit the allegations contained in ¶ “6” of the complaint.
7. Admit the allegations contained in ¶ “7” of the complaint.
8. Admit the allegations contained in ¶ “8” of the complaint.

9. Deny the allegations contained in ¶ “9” of the complaint, and refer all questions of law to the Court for adjudication.

10. Deny the allegations contained in ¶ “10” of the complaint, and refer all questions of law to the Court for adjudication.

11. Admit the allegations contained in ¶ “11” of the complaint.

12. Admit the allegations contained in ¶ “12” of the complaint.

13. Admit the allegations contained in ¶ “13” of the complaint.

14. Admit the allegations contained in ¶ “14” of the complaint.

15. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “15” of the complaint.

16. Admit the allegations contained in ¶ “16” of the complaint.

17. Deny the allegations contained in ¶ “17” of the complaint, and refer all questions of law to the Court for adjudication.

18. Deny the allegations contained in ¶ “18” of the complaint, and refer all questions of law to the Court for adjudication.

19. Deny the allegations contained in ¶ “19” of the complaint.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “20” of the complaint.

21. Deny the allegations contained in ¶ “21” of the complaint.

22. Deny the allegations contained in ¶ “22” of the complaint.

23. Deny the allegations contained in ¶ “23” of the complaint, and refer all questions of law to the Court for adjudication.

24. Deny the allegations contained in ¶ “24” of the complaint.

25. Deny the allegations contained in ¶ “25” of the complaint.

26. Deny the allegations contained in ¶ “26” of the complaint, and refer all questions of law to the Court for adjudication.

27. Deny the allegations contained in ¶ “27” of the complaint.

28. Deny the allegations contained in ¶ “28” of the complaint.

29. Deny the allegations contained in ¶ “29” of the complaint.

30. Deny the allegations contained in ¶ “30” of the complaint.

31. Deny the allegations contained in ¶ “31” of the complaint.

32. Deny the allegations contained in ¶ “32” of the complaint.

33. Deny the allegations contained in ¶ “33” of the complaint.

34. Deny the allegations contained in ¶ “34” of the complaint.

35. Deny the allegations contained in ¶ “35” of the complaint.

36. Deny the allegations contained in ¶ “36” of the complaint.

37. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “37” of the complaint.

38. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ “38” of the complaint.

39. Deny the allegations contained in ¶ “39” of the complaint.

40. Deny the allegations contained in ¶ “40” of the complaint.

41. Deny the allegations contained in ¶ “41” of the complaint.

42. Deny the allegations contained in ¶ “42” of the complaint.

43. Deny the allegations contained in ¶ “43” of the complaint.

FIRST CAUSE OF ACTION

44. As and for a response to the allegations contained in ¶ “44” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “43” of the complaint, as though they were fully set forth herein.

45. Deny the allegations contained in ¶ “45” of the complaint, and refer all questions of law to the Court for adjudication.

SECOND CAUSE OF ACTION

46. As and for a response to the allegations contained in ¶ “46” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “45” of the complaint, as though they were fully set forth herein.

47. Deny the allegations contained in ¶ “47” of the complaint, and refer all questions of law to the Court for adjudication.

THIRD CAUSE OF ACTION

48. As and for a response to the allegations contained in ¶ “48” of the complaint, defendants repeat and reallege their responses to the allegations contained in ¶¶ “1” through “47” of the complaint, as though they were fully set forth herein.

49. Deny the allegations contained in ¶ “49” of the complaint, and refer all questions of law to the Court for adjudication.

FIRST AFFIRMATIVE DEFENSE

50. Plaintiff has failed to effectuate proper service over some or all of the defendants.

SECOND AFFIRMATIVE DEFENSE

51. Plaintiff lacks personal jurisdiction over some or all of the defendants.

THIRD AFFIRMATIVE DEFENSE

52. To the extent that plaintiff seeks to assert any state law claims, they are time-barred.

FOURTH AFFIRMATIVE DEFENSE

53. To the extent that plaintiff seeks to assert any state law claims, they are barred by plaintiff's failure to file a notice of claim under the General Municipal Law.

FIFTH AFFIRMATIVE DEFENSE

54. Plaintiff's claims against the individual defendants are barred by the doctrine of legislative immunity.

SIXTH AFFIRMATIVE DEFENSE

55. Plaintiff's claims against the individual defendants are barred by the quasi-judicial immunity.

SEVENTH AFFIRMATIVE DEFENSE

56. Plaintiff's claims against the individual defendants are barred by the doctrine of qualified immunity.

EIGHTH AFFIRMATIVE DEFENSE

57. Plaintiff's claims against all defendants are barred by the doctrines of res judicata and collateral estoppel.

NINTH AFFIRMATIVE DEFENSE

58. Plaintiff's complaint fails to state a claim upon which relief may be granted.

TENTH AFFIRMATIVE DEFENSE

59. Plaintiff's land use application, the denial of which forms the basis of this lawsuit, sought permission to use the subject property illegally.

WHEREFORE, defendant requests judgment dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: Mineola, New York
May 28, 2008

MIRANDA SOKOLOFF SAMBURSKY
SLONE VERVENIOTIS, LLP
Counsel for Defendants

By: 

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